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CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 255

Introduced by Assembly Member Zettel
(Coauthor: Assembly Member Jackson)

February 14, 2001

An act to amend Sections 15601, 15610.17, 15610.23, 15610.37, 15610.55, 15610.57, 15630, 15633.5, 15634, 15659, 15701, 15760, and 15763 of, to amend and renumber Section 15751 of, to amend, renumber, and add Section 15750 of, to amend and repeal Section 15653.5 of, to add Sections 15610.19, 15610.39, and 15655.5 to, to repeal Sections 15701.1, 15701.15, 15701.2, 15701.35, 15752, 15753, 15753.5, and 15761 of, and to repeal the heading of Chapter 13.5 (commencing with Section 15760) of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to elder abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 255, as amended, Zettel. Elder abuse.

(1) Existing law, the Elder Abuse and Dependent Adult Civil Protection Act, establishes various procedures for the reporting,

investigation, and prosecution of elder and dependent adult abuse. These procedures require certain persons, called mandated reporters, to report known or suspected instances of elder or dependent adult abuse. Under existing law, care custodians of elder or dependent adults and local law enforcement agencies are mandated reporters. A violation of the reporting requirements by a mandated reporter, as defined, is a misdemeanor.

This bill would revise the provisions setting forth the purposes of the act, would revise the definition of mandated reporter by including a “clergy member,” as defined, and redefining “care custodian” to include certain employees of humane societies, animal control agencies, fire departments, and offices of environmental health and code enforcement. The bill would also add abduction to the conduct that is required to be reported under the act, would redefine “multidisciplinary personnel team,” and “neglect,” and would define “imminent danger.” It would also exclude from the definition of “health practitioner” religious practitioners who diagnose, examine, or treat elders or dependent adults.

(2) Existing law authorizes various entities to receive information relevant to an incident of elder or dependent adult abuse and applies confidentiality requirements and liability limitations to those entities.

This bill would extend to any district attorney’s office the authority to receive this information and apply the related confidentiality and liability provisions to the office.

Because the bill would expand the definition of a crime, it would impose a state-mandated local program.

(3) Existing law specifies procedures under which a law enforcement officer or other designated persons, may take an endangered adult, as defined, into temporary emergency protective custody or, whether or not medical treatment is required, any physician treating the endangered adult may request that the law enforcement agency take that endangered adult into temporary emergency protective custody, under specified circumstances. Existing law defines various terms for purposes of these provisions.

This bill would revise the definition of the terms to conform to the definitions used for purposes of the act.

(4) Existing law requires every county welfare department to establish and maintain within the county welfare department a specialized entity responsible for the operation of an adult protective



services program. Existing law defines various terms for purposes of these provisions.

This bill would revise these definitions of the terms to conform to the definitions used for purposes of the act.

(5) Existing law provides for enhanced adult protective services provisions, to the extent funds are provided in the annual Budget Act, that require that adult protective services include certain activities and require each county to establish an emergency response adult protective services program containing specified requirements.

This bill would combine these provisions with those described in (4) above and make other changes to conform these provisions to the act. The bill would revise the program requirements related to providing immediate intake or intervention in response to reports and the requirements of an immediate response concerning certain reports involving elder or dependent adults residing in other than long-term care or residential facilities. It would also require a county adult protective service agency to provide certain organizations with specified instructional materials regarding elder and dependent adult abuse and neglect and their obligations under the act. The imposition of this new requirement on counties would create a state-mandated local program.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

SECTION 1. Section 15601 of the Welfare and Institutions Code is amended to read:

15601. The purposes of this act are to:

(a) Require health practitioners, care custodians, clergy members, and employees of county adult protective services agencies and local law enforcement agencies to report known or suspected cases of abuse of elders and dependent adults and to encourage community members in general to do so.

(b) Collect information on the numbers of abuse victims, circumstances surrounding the act of abuse, and other data which will aid the state in establishing adequate services to aid all victims of abuse in a timely, compassionate manner.

(c) Provide for protection under the law for all those persons who report suspected cases of abuse, provided that the report is not made with malicious intent.

SEC. 2. Section 15610.17 of the Welfare and Institutions Code is amended to read:

15610.17. "Care custodian" means an administrator or an employee of any of the following public or private facilities or agencies, or persons providing care or services for elders or dependent adults, including members of the support staff and maintenance staff:

(a) Twenty-four-hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(b) Clinics.

(c) Home health agencies.

(d) Agencies providing publicly funded in-home supportive services, nutrition services, or other home and community-based support services.

(e) Adult day health care centers and adult day care.

(f) Secondary schools that serve 18- to 22-year-old dependent adults and postsecondary educational institutions that serve dependent adults or elders.

(g) Independent living centers.

(h) Camps.

(i) Alzheimer's Disease day care resource centers.

(j) Community care facilities, as defined in Section 1502 of the Health and Safety Code, and residential care facilities for the

1 elderly, as defined in Section 1569.2 of the Health and Safety
2 Code.

3 (k) Respite care facilities.

4 (l) Foster homes.

5 (m) Vocational rehabilitation facilities and work activity
6 centers.

7 (n) Designated area agencies on aging.

8 (o) Regional centers for persons with developmental
9 disabilities.

10 (p) State Department of Social Services and State Department
11 of Health Services licensing divisions.

12 (q) County welfare departments.

13 (r) Offices of patients' rights advocates and clients' rights
14 advocates, including attorneys.

15 (s) The office of the long-term care ombudsman.

16 (t) Offices of public conservators, public guardians, and court
17 investigators.

18 (u) Any protection or advocacy agency or entity that is
19 designated by the Governor to fulfill the requirements and
20 assurances of the following:

21 (1) The federal Developmental Disability Assistance and Bill
22 of Rights Act, as amended, contained in Chapter 75 (commencing
23 with Section 6000) of Title 42 of the United States Code, for
24 protection and advocacy of the rights of persons with
25 developmental disabilities.

26 (2) The Protection and Advocacy for the Mentally Ill
27 Individuals Act of 1986, as amended, contained in Chapter 114
28 (commencing with Section 10801) of Title 42 of the United States
29 Code, for the protection and advocacy of the rights of persons with
30 mental illnesses.

31 (v) Humane societies and animal control agencies.

32 (w) Fire departments.

33 (x) Offices of environmental health and building code
34 enforcement.

35 (y) Any other protective, public, sectarian, mental health, or
36 private assistance or advocacy agency or person providing health
37 services or social services to elders or dependent adults.

38 SEC. 3. Section 15610.19 is added to the Welfare and
39 Institutions Code, to read:

1 15610.19. "Clergy member" means a priest, minister, rabbi,
2 religious practitioner, or similar functionary of a church,
3 synagogue, temple, mosque, or recognized religious
4 denomination or organization. "Clergy member" does not include
5 unpaid volunteers whose principal occupation or vocation does
6 not involve active or ordained ministry in a church, synagogue,
7 temple, mosque, or recognized religious denomination or
8 organization and who periodically visit elder or dependent adults
9 on behalf of that church, synagogue, temple, mosque, or
10 recognized religious denomination or organization.

11 SEC. 4. Section 15610.23 of the Welfare and Institutions
12 Code is amended to read:

13 15610.23. (a) "Dependent adult" means any person between
14 the ages of 18 and 64 years who resides in this state and who has
15 physical or mental limitations that restrict his or her ability to carry
16 out normal activities or to protect his or her rights, including, but
17 not limited to, persons who have physical or developmental
18 disabilities, or whose physical or mental abilities have diminished
19 because of age.

20 (b) "Dependent adult" includes any person between the ages
21 of 18 and 64 years who is admitted as an inpatient to a 24-hour
22 health facility, as defined in Sections 1250, 1250.2, and 1250.3 of
23 the Health and Safety Code.

24 SEC. 5. Section 15610.37 of the Welfare and Institutions
25 Code is amended to read:

26 15610.37. "Health practitioner" means a physician and
27 surgeon, psychiatrist, psychologist, dentist, resident, intern,
28 podiatrist, chiropractor, licensed nurse, dental hygienist, licensed
29 clinical social worker or ~~intern~~ *associate clinical social worker*,
30 marriage, family, and child counselor, or any other person who is
31 currently licensed under Division 2 (commencing with Section
32 500) of the Business and Professions Code, any emergency
33 medical technician I or II, paramedic, or person certified pursuant
34 to Division 2.5 (commencing with Section 1797) of the Health and
35 Safety Code, a psychological assistant registered pursuant to
36 Section 2913 of the Business and Professions Code, a marriage,
37 family, and child counselor trainee, as defined in subdivision (c)
38 of Section 4980.03 of the Business and Professions Code, or an
39 unlicensed marriage, family, and child counselor intern registered
40 under Section 4980.44 of the Business and Professions Code, state



1 or county public health or social service employee who treats an
2 elder or a dependent adult for any condition, or a coroner.

3 SEC. 6. Section 15610.39 is added to the Welfare and
4 Institutions Code, to read:

5 15610.39. “Imminent danger” means a substantial
6 probability that an elder or dependent adult is in imminent or
7 immediate risk of death or serious physical harm, through either
8 his or her own action or inaction, or as a result of the action or
9 inaction of another person.

10 SEC. 7. Section 15610.55 of the Welfare and Institutions
11 Code is amended to read:

12 15610.55. (a) “Multidisciplinary personnel team” means
13 any team of two or more persons who are trained in the prevention,
14 identification, and treatment of abuse of elderly or dependent
15 adults and who are qualified to provide a broad range of services
16 related to abuse of elderly or dependent adults.

17 (b) A multidisciplinary personnel team may include, but is not
18 limited to, all of the following:

19 (1) Psychiatrists, psychologists, or other trained counseling
20 personnel.

21 (2) Police officers or other law enforcement agents.

22 (3) Medical personnel with sufficient training to provide health
23 services.

24 (4) Social workers with experience or training in prevention of
25 abuse of elderly or dependent adults.

26 (5) Public guardians.

27 (6) *The local long-term care ombudsman.*

28 SEC. 8. Section 15610.57 of the Welfare and Institutions
29 Code is amended to read:

30 15610.57. (a) “Neglect” means either of the following:

31 (1) The negligent failure of any person having the care or
32 custody of an elder or a dependent adult to exercise that degree of
33 care that a reasonable person in a like position would exercise.

34 (2) The negligent failure of an elder or dependent adult to
35 exercise that degree of self care that a reasonable person in a like
36 position would exercise.

37 (b) Neglect includes, but is not limited to, all of the following:

38 (1) Failure to assist in personal hygiene, or in the provision of
39 food, clothing, or shelter.

(2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(3) Failure to protect from health and safety hazards.

(4) Failure to prevent malnutrition or dehydration.

(5) Failure of an elder or dependent adult to satisfy the needs specified in paragraphs (1) to (4), inclusive, for himself or herself as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.

SEC. 9. Section 15630 of the Welfare and Institutions Code is amended to read:

15630. (a) Any person who has assumed full or intermittent responsibility for care or custody of an elder or dependent adult, whether or not that person receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

(b) (1) Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone immediately or as soon as ~~practically~~ *practicably* possible, and by written report sent within two working days, as follows:

(A) If the abuse has occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the report shall be made to the local ombudsman or the local law enforcement agency.

Except in an emergency, the local ombudsman and the local law enforcement agency shall, as soon as practicable, report to the State Department of Health Services any case of known or suspected abuse occurring in a long-term health care facility, as

~~defined in subdivision (a) of Section 1418 of the Health and Safety Code; report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day health center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code; and report to the Bureau~~ enforcement agency shall, as soon as practicable, do all of the following:

(i) Report to the State Department of Health Services any case of known or suspected abuse occurring in a long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(ii) Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day care facility, as defined in paragraph (2) of subdivision (a) of Section 1502.

(iii) Report to the State Department of Health Services and the California Department of Aging any case of known or suspected abuse occurring in an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.

(iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity.

(B) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report shall be made to designated investigators of the State Department of Mental Health or the State Department of Developmental Services, or to the local law enforcement agency.

Except in an emergency, the local law enforcement agency shall, as soon as practicable, report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

(C) If the abuse has occurred any place other than one described in subparagraph (A), the report shall be made to the adult protective services agency or the local law enforcement agency.

(2) (A) A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a penitential communication is not subject to paragraph (1). For purposes of this subdivision, “penitential communication” means a communication that is intended to be in

1 confidence, including, but not limited to, a sacramental confession
2 made to a clergy member who, in the course of the discipline or
3 practice of his or her church, denomination, or organization is
4 authorized or accustomed to hear those communications, and
5 under the discipline tenets, customs, or practices of his or her
6 church, denomination, or organization, has a duty to keep those
7 communications secret.

8 (B) Nothing in this subdivision shall be construed to modify or
9 limit a clergy member's duty to report known or suspected elder
10 and dependent adult abuse when he or she is acting in the capacity
11 of a care custodian, health practitioner, or employee of an adult
12 protective agency.

13 (C) Notwithstanding any other provision in this section, a
14 clergy member who is not regularly employed on either a full-time
15 or part-time basis in a long-term care facility or does not have care
16 or custody of an elder or dependent adult shall not be responsible
17 for reporting abuse or neglect that is not reasonably observable or
18 discernible to a reasonably prudent person having no specialized
19 training or experience in elder or dependent care.

20 (3) (A) A mandated reporter who is a physician and surgeon,
21 a registered nurse, or a psychotherapist, as defined in Section 1010
22 of the Evidence Code, shall not be required to report, pursuant to
23 paragraph (1), an incident where all of the following conditions
24 exist:

25 (i) The mandated reporter has been told by an elder or
26 dependent adult that he or she has experienced behavior
27 constituting physical abuse, abandonment, abduction, isolation,
28 financial abuse, or neglect.

29 (ii) The mandated reporter is not aware of any independent
30 evidence that corroborates the statement that the abuse has
31 occurred.

32 (iii) The elder or dependent adult has been diagnosed with a
33 mental illness or dementia, or is the subject of a court-ordered
34 conservatorship because of a mental illness or dementia.

35 (iv) In the exercise of clinical judgment, the physician and
36 surgeon, the registered nurse, or the psychotherapist, as defined in
37 Section 1010 of the Evidence Code, reasonably believes that the
38 abuse did not occur.

39 (B) This paragraph shall not be construed to impose upon
40 mandated reporters a duty to investigate a known or suspected

incident of abuse and shall not be construed to lessen or restrict any existing duty of mandated reporters.

(4) (A) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident where all of the following conditions exist:

(i) The mandated reporter is aware that there is a proper plan of care.

(ii) The mandated reporter is aware that the plan of care was properly provided or executed.

(iii) A physical, mental, or medical injury occurred as a result of care provided pursuant to clause (i) or (ii).

(iv) The mandated reporter reasonably believes that the injury was not the result of abuse.

(B) This paragraph shall not be construed to require a mandated reporter to seek, nor to preclude a mandated reporter from seeking, information regarding a known or suspected incident of abuse prior to reporting. This paragraph shall apply only to those categories of mandated reporters that the State Department of Health Services determines, upon approval by the Bureau of Medi-Cal Fraud and Elder Abuse and the state long-term care ombudsman, have access to plans of care and have the training and experience necessary to determine whether the conditions specified in this section have been met.

(c) (1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder or dependent adult, or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.

(2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsman program. Except in an emergency, the local ombudsman shall report any case of known or suspected abuse to the State Department of Health Services and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practical.

(3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be

1 made to the designated investigator of the State Department of
2 Mental Health or the State Department of Developmental
3 Services, or to a local law enforcement agency or to the local
4 ombudsman. Except in an emergency, the local ombudsman and
5 the local law enforcement agency shall report any case of known
6 or suspected criminal activity to the Bureau of Medi-Cal Fraud and
7 Elder Abuse, as soon as is practical.

8 (4) If the suspected or alleged abuse occurred in a place other
9 than a place described in paragraph (2) or (3), the report may be
10 made to the county adult protective services agency.

11 (5) If the conduct involves criminal activity not covered in
12 subdivision (b), it may be immediately reported to the appropriate
13 law enforcement agency.

14 (d) When two or more mandated reporters are present and
15 jointly have knowledge or reasonably suspect that types of abuse
16 of an elder or a dependent adult for which a report is or is not
17 mandated have occurred, and when there is agreement among
18 them, the telephone report may be made by a member of the team
19 selected by mutual agreement, and a single report may be made
20 and signed by the selected member of the reporting team. Any
21 member who has knowledge that the member designated to report
22 has failed to do so shall thereafter make the report.

23 (e) A telephone report of a known or suspected instance of elder
24 or dependent adult abuse shall include, if known, the name of the
25 person making the report, the name and age of the elder or
26 dependent adult, the present location of the elder or dependent
27 adult, the names and addresses of family members or any other
28 person responsible for the elder or dependent adult's care, the
29 nature and extent of the elder or dependent adult's condition, the
30 date of the incident, and any other information, including
31 information that led that person to suspect elder or dependent adult
32 abuse, as requested by the agency receiving the report.

33 (f) The reporting duties under this section are individual, and
34 no supervisor or administrator shall impede or inhibit the reporting
35 duties, and no person making the report shall be subject to any
36 sanction for making the report. However, internal procedures to
37 facilitate reporting, ensure confidentiality, and apprise supervisors
38 and administrators of reports may be established, provided they
39 are not inconsistent with this chapter.



(g) (1) Whenever this section requires a county adult protective services agency to report to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that county adult protective services agency.

(2) Whenever this section requires a law enforcement agency to report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide to that law enforcement agency a copy of its investigative report concerning the reported matter.

(3) The requirement to disclose investigative reports pursuant to this subdivision shall not include the disclosure of social services records or case files that are confidential, nor shall this subdivision be construed to allow disclosure of any reports or records if the disclosure would be prohibited by any other provision of state or federal law.

(h) Failure to report physical abuse, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. Any mandated reporter who willfully fails to report physical abuse, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, where that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment.

SEC. 10. Section 15633.5 of the Welfare and Institutions Code is amended to read:

15633.5. (a) Information relevant to the incident of elder or dependent adult abuse may be given to an investigator from an adult protective services agency, a local law enforcement agency, a district attorney's office, the Bureau of Medi-Cal Fraud and Elder Abuse, or investigators of the Department of Consumer Affairs, Division of Investigation, who are investigating the known or suspected case of elder or dependent adult abuse.

(b) The identity of all persons who report under this chapter shall be confidential and disclosed only among adult protective services agencies, long-term care ombudsman programs, licensing

1 agencies, local law enforcement agencies, district attorneys'
2 offices, the bureau, and the Division of Investigation to counsel
3 representing an adult protective services agency, long-term care
4 ombudsman program, licensing agency, or a local law
5 enforcement agency, by the bureau to the district attorney in a
6 criminal prosecution, when persons reporting waive
7 confidentiality, or by court order.

8 (c) Notwithstanding subdivisions (a) and (b), any person
9 reporting pursuant to Section 15631 shall not be required to
10 include his or her name in the report.

11 SEC. 11. Section 15634 of the Welfare and Institutions Code
12 is amended to read:

13 15634. (a) No care custodian, ~~including any~~ clergy member,
14 health practitioner, or employee of an adult protective service
15 agency or a local law enforcement agency who reports a known or
16 suspected instance of elder or dependent adult abuse shall be
17 civilly or criminally liable for any report required or authorized by
18 this article. Any other person reporting a known or suspected
19 instance of elder or dependent adult abuse shall not incur civil or
20 criminal liability as a result of any report authorized by this article,
21 unless it can be proven that a false report was made and the person
22 knew that the report was false. No person required to make a report
23 pursuant to this article, or any person taking photographs at his or
24 her discretion, shall incur any civil or criminal liability for taking
25 photographs of a suspected victim of elder or dependent adult
26 abuse or causing photographs to be taken of such a suspected
27 victim or for disseminating the photographs with the reports
28 required by this article. However, this section shall not be
29 construed to grant immunity from this liability with respect to any
30 other use of the photographs.

31 (b) Any care custodian, clergy member, health practitioner, or
32 employee of an adult protective services agency or a local law
33 enforcement agency who, pursuant to a request from an adult
34 protective services agency or a local law enforcement agency
35 investigating a report of known or suspected elder or dependent
36 adult abuse, provides the requesting agency with access to the
37 victim of a known or suspected instance of elder or dependent
38 adult abuse, shall not incur civil or criminal liability as a result of
39 providing that access.

1 (c) The Legislature finds that, even though it has provided
 2 immunity from liability to persons required to report elder or
 3 dependent adult abuse, immunity does not eliminate the possibility
 4 that actions may be brought against those persons based upon
 5 required reports of abuse. In order to further limit the financial
 6 hardship that those persons may incur as a result of fulfilling their
 7 legal responsibilities, it is necessary that they not be unfairly
 8 burdened by legal fees incurred in defending those actions.
 9 Therefore, a care custodian, clergy member, health practitioner, or
 10 an employee of an adult protective services agency or a local law
 11 enforcement agency may present a claim to the State Board of
 12 Control for reasonable attorneys' fees incurred in any action
 13 against that person on the basis of making a report required or
 14 authorized by this article if the court has dismissed the action upon
 15 a demurrer or motion for summary judgment made by that person,
 16 or if he or she prevails in the action. The State Board of Control
 17 shall allow that claim if the requirements of this subdivision are
 18 met, and the claim shall be paid from an appropriation to be made
 19 for that purpose. Attorneys' fees awarded pursuant to this section
 20 shall not exceed an hourly rate greater than the rate charged by the
 21 Attorney General at the time the award is made and shall not
 22 exceed an aggregate amount of fifty thousand dollars (\$50,000).
 23 This subdivision shall not apply if a public entity has provided for
 24 the defense of the action pursuant to Section 995 of the
 25 Government Code.

26 SEC. 12. Section 15653.5 of the Welfare and Institutions
 27 Code, as added by Chapter 946 of the Statutes of 1998, is repealed.

28 SEC. 12.3. Section 15653.5 of the Welfare and Institutions
 29 Code, as added by Chapter 980 of the Statutes of 1998, is amended
 30 to read:

31 15653.5. Training for determining when to refer for possible
 32 criminal prosecution a report of a known or suspected instance of
 33 abuse that occurred in a long-term care facility shall be included
 34 in the training provided by the Bureau of Medi-Cal Fraud and
 35 Elder Abuse pursuant to subdivision (h) of Section 12528 of the
 36 Government Code.

37 SEC. 12.5. Section 15655.5 is added to the Welfare and
 38 Institutions Code, to read:

39 15655.5. A county adult protective service agency shall
 40 provide the organizations listed in paragraphs (v), (w), and (x) of

1 Section 15610.17 with instructional materials regarding elder and
2 dependent adult abuse and neglect and their obligation to report
3 under this chapter. At a minimum, the instructional materials shall
4 include the following:

5 (a) An explanation of elder and dependent adult abuse and
6 neglect, as defined in this chapter.

7 (b) Information on how to recognize potential elder and
8 dependent adult abuse and neglect.

9 (c) Information on how the county adult protective service
10 agency investigates reports of known or suspected abuse and
11 neglect.

12 (d) Instructions on how to report known or suspected incidents
13 of abuse and neglect, including the appropriate telephone numbers
14 to call and what types of information would assist the county adult
15 protective service agency with its investigation of the report.

16 SEC. 12.7. Section 15659 of the Welfare and Institutions
17 Code is amended to read:

18 15659. (a) Any person who enters into employment on or
19 after January 1, 1995, as a care custodian, clergy member, health
20 practitioner, or with an adult protective services agency or a local
21 law enforcement agency, prior to commencing his or her
22 employment and as a prerequisite to that employment, shall sign
23 a statement on a form that shall be provided by the prospective
24 employer, to the effect that he or she has knowledge of Section
25 15630 and will comply with its provisions. The employer shall
26 provide a copy of Section 15630 to the employee. The statement
27 shall inform the employee that he or she is a mandated reporter and
28 inform the employee of his or her reporting obligations under
29 Section 15630. The signed statement shall be retained by the
30 employer.

31 (b) Agencies or facilities that employ persons who were
32 employed prior to January 1, 1995, and who are required to make
33 reports pursuant to Section 15630 shall inform those persons of
34 their responsibility to make reports by delivering to them a copy
35 of the statement specified in subdivision (a).

36 (c) The cost of printing, distribution, and filing of these
37 statements shall be borne by the employer.

38 (d) On and after January 1, 1995, when a person is issued a state
39 license or certificate to engage in a profession or occupation the
40 members of which are required to make a report pursuant to

1 Section 15630, the state agency issuing the license or certificate
2 shall send to the person a statement substantially similar to the one
3 contained in subdivision (a) at the same time that it transmits to the
4 person the document indicating licensure or certification.

5 (e) As an alternative to the procedure required by subdivision
6 (d), a state agency may cause the required statement to be printed
7 on all application forms for a license or certificate printed on or
8 after January 1, 1995.

9 (f) The retention of statements required by subdivision (a), and
10 the delivery of statements required by subdivision (b), shall be the
11 full extent of the employer's duty pursuant to this section. The
12 failure of any employee or other person associated with the
13 employer to report abuse of elders or dependent adults pursuant to
14 Section 15630 or otherwise meet the requirements of this chapter
15 shall be the sole responsibility of that person. The employer or
16 facility shall incur no civil or other liability for the failure of these
17 persons to comply with the requirements of this chapter.

18 SEC. 13. Section 15701 of the Welfare and Institutions Code
19 is amended to read:

20 15701. The definitions contained in this article and Chapter
21 11 (commencing with Section 15600) shall govern the
22 construction of this chapter.

23 SEC. 14. Section 15701.1 of the Welfare and Institutions
24 Code is repealed.

25 SEC. 15. Section 15701.15 of the Welfare and Institutions
26 Code is repealed.

27 SEC. 16. Section 15701.2 of the Welfare and Institutions
28 Code is repealed.

29 SEC. 17. Section 15701.35 of the Welfare and Institutions
30 Code is repealed.

31 SEC. 18. Section 15750 of the Welfare and Institutions Code
32 is amended and renumbered to read:

33 15751. Each county welfare department shall establish and
34 support a system of protective services to elderly and dependent
35 adults who may be subjected to neglect, abuse, or exploitation, or
36 who are unable to protect their own interest.

37 This system shall be known as the county adult protective
38 services system.

39 SEC. 19. Section 15750 is added to the Welfare and
40 Institutions Code, to read:

1 15750. The definitions contained in Chapter 11 (commencing
2 with Section 15600) shall govern the construction of this chapter.

3 SEC. 20. Section 15751 of the Welfare and Institutions Code
4 is amended and renumbered to read:

5 15752. Each county shall establish and maintain a specialized
6 entity within the county welfare department which shall have lead
7 responsibility for the operation of the adult protective services
8 program.

9 SEC. 21. Section 15752 of the Welfare and Institutions Code
10 is repealed.

11 SEC. 22. Section 15753 of the Welfare and Institutions Code
12 is repealed.

13 SEC. 23. Section 15753.5 of the Welfare and Institutions
14 Code is repealed.

15 SEC. 24. The heading of Chapter 13.5 (commencing with
16 Section 15760) of Part 3 of Division 9 of the Welfare and
17 Institutions Code is repealed.

18 SEC. 25. Section 15760 of the Welfare and Institutions Code
19 is amended to read:

20 15760. Adult protective services shall include investigations,
21 needs assessments, remedial and preventive social work activities;
22 the necessary tangible resources such as food, transportation,
23 emergency shelter, and in-home protective care; the use of
24 multidisciplinary teams; and a system in which reporting of abuse
25 can occur on a 24-hour basis.

26 SEC. 26. Section 15761 of the Welfare and Institutions Code
27 is repealed.

28 ~~SEC. 27. Section 15763 of the Welfare and Institutions Code~~
29 ~~is amended to read:~~

30 ~~15763. (a) Each county shall establish an emergency~~
31 ~~response adult protective services program that shall provide~~
32 ~~in-person response, 24 hours per day, seven days per week, to~~
33 ~~reports of abuse of an elder or a dependent adult, for the purpose~~
34 ~~of providing immediate intake or intervention, or both, with regard~~
35 ~~to new reports involving immediate life threats or imminent~~
36 ~~danger, and to crises in existing cases. The program shall include~~
37 ~~policies and procedures to accomplish all of the following:~~

38 ~~(1) Provision of case management services that include~~
39 ~~investigation of the protection issues; assessment of the person's~~
40 ~~concerns, needs, strengths, problems, and limitations;~~

1 ~~stabilization and linking the person with community services; and~~
2 ~~development of a service plan to alleviate identified problems~~
3 ~~utilizing counseling, monitoring, followup, and reassessment.~~

4 ~~(2) Provisions for emergency shelter or in-home protection to~~
5 ~~guarantee a safe place for the elder or dependent adult to stay until~~
6 ~~the dangers at home can be resolved.~~

7 ~~(3) Establishment of multidisciplinary teams to develop~~
8 ~~interagency treatment strategies, ensure maximum coordination~~
9 ~~with existing community resources, ensure maximum access on~~
10 ~~behalf of elders and dependent adults, and avoid duplication of~~
11 ~~efforts.~~

12 ~~(b) (1) A county shall respond immediately to any new report~~
13 ~~of crises in existing cases of, imminent threat to life to, or~~
14 ~~imminent danger to, any elder or dependent adult residing in other~~
15 ~~than a long-term care facility as defined in Section 15610.47 of the~~
16 ~~Welfare and Institutions Code, or a residential facility. For reports~~
17 ~~involving persons residing in a long-term care facility or a~~
18 ~~residential care facility, the county shall report to the local~~
19 ~~long-term care ombudsman program. Adult protective services~~
20 ~~staff shall consult, coordinate, and support efforts of the~~
21 ~~ombudsman program to protect vulnerable residents. Except as~~
22 ~~specified in paragraph (2), the county shall respond to all other~~
23 ~~reports of danger to an elder or dependent adult in other than a~~
24 ~~long-term care facility or residential care facility within 10~~
25 ~~calendar days or as soon as practicably possible.~~

26 ~~(2) An immediate or 10-day in-person response is not required~~
27 ~~when the county, based upon an evaluation of risk, determines and~~
28 ~~documents that the elder or dependent adult is not in immediate or~~
29 ~~imminent danger and that an immediate or 10-day in-person~~
30 ~~response is not necessary to protect the health or safety of the elder~~
31 ~~or dependent adult.~~

32 ~~(3) Until criteria and standards are developed to implement~~
33 ~~paragraph (2), the county's evaluation pursuant to paragraph (2)~~
34 ~~shall include and document all of the following:~~

35 ~~(A) The factors that led to the county's decision that an~~
36 ~~in-person response was not required.~~

37 ~~(B) The level of risk to the elder or dependent adult, including~~
38 ~~collateral contacts.~~

~~(C) A review of previous referrals and other relevant information as indicated for the purpose of resolving or ameliorating the protection issues identified in the service plan.~~

~~(D) The need for intervention at the time.~~

~~(E) The need for protective services.~~

~~(4) On or before April 1, 2001, and annually thereafter, the State Department of Social Services shall submit a report to the Legislature regarding the number of cases by county, out of the total number of cases reported to the counties, that were determined not to require an immediate or 10-day in-person response pursuant to paragraph (2), and the disposition of those cases.~~

~~(c) A county shall provide case management services to elders and dependent adults who are determined to be in need of adult protective services for the purpose of bringing about changes in the lives of victims and to provide a safety net to enable victims to protect themselves in the future. Case management services shall include the following, to the extent services are appropriate for the individual:~~

~~(1) Investigation of the protection issues, including, but not limited to, social, medical, environmental, physical, emotional, and developmental.~~

~~(2) Assessment of the concerns and needs of the person on whom the report has been made and the concerns and needs of other members of the family and household.~~

~~(3) Analysis of problems and strengths.~~

~~(4) Establishment of a service plan for each person on whom the report has been made to alleviate the identified problems.~~

~~(5) Client input and acceptance of proposed service plans.~~

~~(6) Counseling for each client on whom a report has been made and significant others to alleviate the identified problems and to implement the service plan.~~

~~(7) Stabilizing and linking each client on whom a report has been made with community services.~~

~~(8) Monitoring and followup.~~

~~(9) Reassessments, as appropriate.~~

~~(d) To the extent resources are available, each county shall provide emergency shelter in the form of a safe haven or in-home protection for victims. Shelter and care appropriate to the needs of~~

1 the victim shall be provided for frail and disabled victims who are
2 in need of assistance with activities of daily living.

3 ~~(e) Each county shall designate an adult protective services~~
4 ~~agency to establish and maintain multidisciplinary teams~~
5 ~~including, but not limited to, adult protective services, law~~
6 ~~enforcement, home health care agencies, hospitals, adult~~
7 ~~protective services staff, the public guardian, private community~~
8 ~~service agencies, public health agencies, and mental health~~
9 ~~agencies, for the purpose of providing interagency treatment~~
10 ~~strategies.~~

11 ~~(f) Each county shall provide tangible support services, to the~~
12 ~~extent resources are available, which may include, but not be~~
13 ~~limited to, emergency food, clothing, repair or replacement of~~
14 ~~essential appliances, plumbing and electrical repair, blankets,~~
15 ~~linens, other household goods, advocacy with utility companies,~~
16 ~~and emergency response units.~~

17 *SEC. 27. Section 15763 of the Welfare and Institutions Code*
18 *is amended to read:*

19 15763. (a) Each county shall establish an emergency
20 response adult protective services program that shall provide
21 in-person response, 24 hours per day, seven days per week, to
22 reports of abuse of an elder or a dependent adult, for the purpose
23 of providing immediate intake or intervention, or both, *with*
24 *regard* to new reports involving immediate life threats *or imminent*
25 *danger*, and to crises in existing cases. The program shall include
26 policies and procedures to accomplish all of the following:

27 (1) Provision of case management services that include
28 investigation of the protection ~~issues~~, *issues*; assessment of the
29 person's concerns, needs, strengths, problems, and ~~limitations~~,
30 *limitation*; stabilization and linking *the person* with community
31 ~~services~~, *services*; and development of a service plan to alleviate
32 identified problems utilizing counseling, monitoring, followup,
33 and reassessment.

34 (2) Provisions for emergency shelter or in-home protection to
35 guarantee a safe place for the elder or dependent adult to stay until
36 the dangers at home can be resolved.

37 (3) Establishment of multidisciplinary teams to develop
38 interagency treatment strategies, ~~to~~ ensure maximum coordination
39 with existing community resources, ~~to~~ ensure maximum access on

1 behalf of elders and dependent adults, and to avoid duplication of
2 efforts.

3 (b) (1) A county shall respond immediately to any ~~report of~~
4 *new report of crises in existing cases of, imminent threat to life to,*
5 *or imminent danger to an any* elder or dependent adult residing in
6 other than a long-term care facility, as defined in Section 9701 of
7 ~~the Welfare and Institutions Code 15610.47~~, or a residential
8 facility, ~~as defined in Section 1502 of the Health and Safety Code.~~
9 For reports involving persons residing in a long-term ~~care~~ facility
10 or a residential ~~care~~ facility, the county shall report to the local
11 long-term care ombudsman program. Adult protective services
12 staff shall consult, coordinate, and support efforts of the
13 ombudsman program to protect vulnerable residents. Except as
14 specified in paragraph (2), the county shall respond to all other
15 reports of danger to an elder or dependent adult in other than a
16 long-term care facility or residential ~~care~~ facility within 10
17 calendar days or as soon as practicably possible.

18 (2) An immediate or 10-day in-person response is not required
19 when the county, based upon an evaluation of risk, determines and
20 documents that the elder or dependent adult is not in *immediate or*
21 *imminent danger* and that an immediate or 10-day in-person
22 response is not necessary to protect the health or safety of the elder
23 or dependent adult.

24 (3) Until criteria and standards are developed to implement
25 paragraph (2), the county's evaluation pursuant to paragraph (2)
26 shall include and document all of the following:

27 (A) The factors that led to the county's decision that an
28 in-person response was not required.

29 (B) The level of risk to the elder or dependent adult, including
30 collateral contacts.

31 (C) A review of previous referrals and other relevant
32 information as indicated *for the purpose of resolving or*
33 *ameliorating the protection issues identified in the service plan.*

34 (D) The need for intervention at the time.

35 (E) The need for protective services.

36 (4) On or before April 1, 2001, and annually thereafter, the
37 State Department of Social Services shall submit a report to the
38 Legislature regarding the number of cases, by county, out of the
39 total number of cases reported to the counties, that were
40 determined not to require an immediate or 10-day in-person

1 response pursuant to paragraph (2), and the disposition of those
2 cases.

3 (c) A county shall provide case management services to elders
4 and dependent adults who are determined to be in need of adult
5 protective services for the purpose of bringing about changes in the
6 lives of victims and to provide a safety net to enable victims to
7 protect themselves in the future. Case management services shall
8 include the following, to the extent services are appropriate for the
9 individual:

10 (1) Investigation of the protection issues, including, but not
11 limited to, social, medical, environmental, physical, emotional,
12 and developmental.

13 (2) Assessment of the ~~person's~~ concerns and needs *of the*
14 *person* on whom the report has been made and the concerns and
15 needs of other members of the family and household.

16 (3) Analysis of problems and strengths.

17 (4) Establishment of a service plan for each person on whom
18 the report has been made to alleviate the identified problems.

19 (5) Client input and acceptance of proposed service plans.

20 (6) Counseling for ~~clients~~ *each client on whom a report has*
21 *been made* and significant others to alleviate the identified
22 problems and to implement the service plan.

23 (7) Stabilizing and linking *each client on whom a report has*
24 *been made* with community services.

25 (8) Monitoring and followup.

26 (9) Reassessments, as appropriate.

27 (d) To the extent resources are available, each county shall
28 provide emergency shelter in the form of a safe haven or in-home
29 protection for victims. Shelter and care appropriate to the needs of
30 the victim shall be provided for frail and disabled victims who are
31 in need of assistance with activities of daily living.

32 (e) Each county shall designate an adult protective services
33 agency to establish and maintain multidisciplinary teams
34 including, but not limited to, adult protective services, law
35 enforcement, home health care agencies, hospitals, adult
36 protective services staff, the public guardian, private community
37 service agencies, public health agencies, and mental health
38 agencies for the purpose of providing interagency treatment
39 strategies.

1 (f) Each county shall provide tangible support services, to the
2 extent resources are available, which may include, but not be
3 limited to, emergency food, clothing, repair or replacement of
4 essential appliances, plumbing and electrical repair, blankets,
5 linens, ~~and~~ other household goods, advocacy with utility
6 companies, and emergency response units.

7 SEC. 28. No reimbursement is required by this act pursuant
8 to Section 6 of Article XIII B of the California Constitution for
9 certain costs that may be incurred by a local agency or school
10 district because in that regard this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

16 However, notwithstanding Section 17610 of the Government
17 Code, if the Commission on State Mandates determines that this
18 act contains other costs mandated by the state, reimbursement to
19 local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code. If the statewide cost of the
22 claim for reimbursement does not exceed one million dollars
23 (\$1,000,000), reimbursement shall be made from the State
24 Mandates Claims Fund.

